IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and
HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 229 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 17/01/2005 in WP No.11450 of 2004 on the file of the High Court.)

Between:

M/s Indian Oil Corporation Limited,
rep. by the Senior Divisional Retail Sales Manager,
Divisional Office, D.No. 3-6-436 to 438,
Naspur House, Himayatnagar, Hyderabad.

..... APPELLANT

AND

1 Ms. A. Anitha, D/o. A. Soma Mallaiah,
R/o. H.No. 6-40/1, Palakurthy Village & Mandal (Via)
Ippaguda, Warangal District.
2 Karemola(Bellapu) Sridevi, D/o. late B.P. Arun Kumar,
R/o. Srinivasa Filling Station, Near REC(NIT), Kazipet,
Warangal District.

.....RESPONDENTS

Counsel for the Appellant : Sri P.V.SANJAY KUMAR
Counsel for the Respondent No.1: Sri Bankatlal Mandani
Counsel for the Respondent No.2: Sri M.Babu Rao

The Court made the following :

ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

Challenge in this appeal is to the order of the learned single Judge allowing the writ petition of first respondent thereby quashing the decision of the appellant herein in allotting dealership of petrol pump to the second respondent as bad in law.

Writ Petitioner as well as the second respondent, who are in this appeal arrayed as respondents 1 and 2, had applied for allotment of retail outlet dealership of petrol pump at Palakurthy village and mandal, Warangal district. Feeling aggrieved by the action of the appellant in having selected the second respondent, writ petition was filed on the ground that close relatives of second respondent, namely B.Suguna Kumari and her brother, B.A.Mohan, jointly owned dealership of Indian Oil Corporation, under name and style of M/s Srinivas Filling Station situate at Regional Engineering College (NIT), Kazipet, Warangal, and therefore the second respondent was not eligible for such allotment. There was yet another challenge that the land situate in Survey No.372/B in Palakurthy Gram Sivar was shown by second respondent, wherein the Government was running a Government Residential Bridge School, and the land is owned by one V.Lokamma belonging to backward caste and her husband is the President of Mandal Parishad, Palakurthy, and the said land is not feasible and is located at the distance of 1 Km from *chowrastha.*

Writ Petition was opposed by appellant as well as second respondent, who filed respective affidavits. The stand of appellant was that as per the guidelines, any Indian National can apply for retail outlet dealership for petrol pump and it is not correct to state that second respondent was not eligible for allotment as she is distantly related to the dealer of an existing retail outlet at Kazipet. As per the

guidelines, ‘close relatives’ would mean husband/wife or unmarried sons or daughters, and they should not have any I.O.C. dealership or of any other public sector oil company. It is also stated that as regards dealership reserved for Scheduled Caste/Scheduled Tribe candidates, there is no need for them to offer any site for location of the retail outlet as the guidelines stipulate that the Corporation will have to identify the site, construct an outlet and handover the same to the selected dealer. The stand of the appellant has been that prescribed selection procedure was followed and candidates have been evaluated as per the settled parameters and selection norms. The Selection Committee consisted of high-ranking experienced officers of the Corporation from Madhya Pradesh. The second respondent was placed at Serial No.1 in the merit list consequent upon the interviews conducted as per the prescribed procedure on

17th June, 2004.

Learned single Judge relying on the decision of the Supreme Court in CENTRE FOR PUBLIC INTEREST LITIGATION Vs. UNION OF INDIA held that the said decision contemplates the ensuring of exercise of discretion in making such allotment in conformity with the Rules by excluding the likelihood of arbitrariness, and therefore, the second respondent would come within the hard area since the mother and brother were already running a retail outlet in Warangal district.

We have heard learned counsel for the parties. The decision relied upon by the learned single Judge would not cover the case in hand, since in the said decision, guidelines for the discretionary allotment of dealership for petroleum products, which are to be followed in discretionary allotment on compassionate grounds, were under consideration. In order to ensure due exercise of discretion in making allotment by excluding the likelihood of arbitrariness, different criteria has been laid down, which is applicable for open quota or reserved quota. Further, the notification for appointment of Retail Outlet Dealership of Indian Oil Corporation says that persons

belonging to Scheduled Caste and Scheduled Tribe categories or categories other than the discretionary quota, and only close relatives mentioned therein, should not have I.O.C. dealership or dealership of any other oil companies of MS/HSD/SKO-LDO/LPG, which means only husband and wife, unmarried sons and daughters cannot have such dealership. Mother and brothers are not included therein. Therefore, allotment was justified by saying that second respondent was not disqualified, and the learned single Judge was not justified in relying on some other guidelines not applicable to the dealership in question. Even on the second ground urged in the writ petition about the identification of sites, guidelines nowhere require the Scheduled Caste and Scheduled Tribe applicants to arrange for the land/site. Clause (11) of the aforementioned notification itself shows that Indian Oil Corporation will offer the facilities to Scheduled Caste and Scheduled Tribe candidates, which includes the location of land and its development. For the reasons aforementioned, and also non-applicability of guidelines in the instant case, the order under challenge in this appeal is vitiated. The second respondent was fully eligible and was rightly selected by due process of selection.

Writ Appeal is allowed and the impugned order is set aside and consequently, writ petition stands dismissed. Parties shall bear their own costs.

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DEVINDER GUPTA, C.J.

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B.SESHASAYANA REDDY, J

14-02-2005

bsc

.....REGISTRAR

To

1. M/s Indian Oil Corporation Limited,
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2. 2 CD copies

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